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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In Re:

CHERRY FRANCIS a/k/a Cherry J. Francis,
Debtor.

Case No. 1-19-43235-CEC

GUSTAVIA HOME, LLC,

Plaintiff,

Adv. Pro. No.: 1-19-01097-cec

v.

(CEC) DEUTSCHE BANK NATIONAL TRUST COMPANY AS
TRUSTEE UNDER THE POOLING AND SERVICING AGREEMENT
RELATED TO IMPAC SECURED ASSETS CORP., MORTGAGE
PASS-THROUGH CERTIFICATES SERIES 2006-3,

Defendant.

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Web Conference

April 22, 2020
10:10 A.M.

DEPOSITION OF PATRICK

PITTMAN, testifying on behalf of the Defendant in
the above-entitled action, taken by the attorney for
the Plaintiff, pursuant to Court Order, held via web
conference before Andrea Bloecker, a Notary Public
within and for the State of New York, at the above
time and place.

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A P P E A R A N C E S:

HASBANI & LIGHT, P.C.
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ROBERT POLLOCK, ESQ.

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221 UNIFORM RULES FOR THE CONDUCT OF DEPOSITIONS

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221.1 OBJECTIONS AT DEPOSITIONS

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(a) Objections in general. No objections shall be made at a deposition except those which, pursuant to subdivision (b), (c) or (d) of Rule 3115 of the Civil Practice Law and Rules, would be waived if not interposed, and except in compliance with subdivision (e) of such rule. All objections made at a deposition shall be noted by the officer before whom the deposition is taken, and the answer shall be given and the deposition shall proceed subject to the objections and to the right of a person to apply for appropriate relief pursuant to Article 31 of the CPLR.

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(b) Speaking objections restricted. Every objection raised during a deposition shall be stated succinctly and framed so as not to suggest an answer to the deponent and, at the request of the questioning attorney, shall include a clear statement as to any defect in form or other basis of error or irregularity. Except to the extent permitted by CPLR Rule 3115 or by this rule, during the course of the examination, persons in attendance shall to make statements or comments that interfere with the questioning.

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221.2 REFUSAL TO ANSWER WHEN AN OBJECTION IS MADE

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A deponent shall answer all questions at a deposition, except (i) to preserve a privilege or right of confidentiality, (ii) to enforce a limitation set forth in an order of the court, or (iii) when the question is plainly improper and would, if answered, cause significant prejudice to any person. An attorney shall not direct a deponent not to answer except as provided in CPLR Rule 3115 or this subdivision. Any refusal to answer or direction not to answer shall be accompanied by a succinct and clear statement of the basis therefore. If the deponent does not answer a question, the examining party shall have the right to complete the remainder of the deposition.

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221 UNIFORM RULES FOR THE CONDUCT OF DEPOSITIONS

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221.3 COMMUNICATION WITH THE DEPONENT

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An attorney shall not interrupt the deposition for the purpose of communication with the deponent unless all parties consent or the communication is made for the purpose of determining whether the question should not be answered on the grounds set forth in Section 221.2 of these rules and, in such event, the reason for the communication shall be stated for the record succinctly and clearly.

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IT IS STIPULATED AND AGREED that the transcript may be signed before a Notary Public with the same force and effect as if signed before a clerk or a Judge of the court.

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IT IS FURTHER STIPULATED AND AGREED that the examination before trial may be utilized for all purposes as provided by the CPLR.

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IT IS FURTHER STIPULATED AND AGREED that all rights provided to all parties by the CPLR cannot be deemed waived and the appropriate sections of the CPLR shall be controlling with respect here to.

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IT IS FURTHER STIPULATED AND AGREED that by and between the attorneys for the respective parties hereto that a copy of the examination shall be furnished, without charge, to the attorneys representing the witness testifying herein.

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1 PATRICK PITTMAN - CONFIDENTIAL 5

2 (Whereupon, Defendant's Responses
3 and Objections to Plaintiff's First
4 Request for Production of Documents was
5 premarked as Plaintiff's Exhibit 1, for
6 identification, as of this date.)

7 (Whereupon, a Proof of Claim was
8 premarked as Plaintiff's Exhibit 2, for
9 identification, as of this date.)

10 (Whereupon, an escrow analysis was
11 premarked as Plaintiff's Exhibit 3, for
12 identification, as of this date.)

13 (Whereupon, an adjustable rate note
14 was premarked as Plaintiff's Exhibit 4,
15 for identification, as of this date.)

16 (Whereupon, a first loan
17 modification was premarked as
18 Plaintiff's Exhibit 5, for
19 identification, as of this date.)

20 (Whereupon, a second loan
21 modification was premarked as
22 Plaintiff's Exhibit 6, for
23 identification, as of this date.)

24 (Whereupon, a mortgage and
25 assignment of mortgage was premarked as

1 PATRICK PITTMAN - CONFIDENTIAL 6

2 Plaintiff's Exhibit 7, for

3 identification, as of this date.)

4 (Whereupon, a loan modification

5 analysis was premarked as Plaintiff's

6 Exhibit 8, for identification, as of this

7 date.)

8 (Whereupon, an adjustable rate

9 mortgage interest rate adjustment notice

10 was premarked as Plaintiff's Exhibit 9,

11 for identification, as of this date.)

12 (Whereupon, a Bank of America

13 payment history was premarked as

14 Plaintiff's Exhibit 10, for

15 identification, as of this date.)

16 THE REPORTER: Before I swear in

17 the witness, I will ask each counsel to

18 stipulate on the record that due to the

19 current national emergency regarding the

20 coronavirus that I may swear in the

21 witness even though I am not physically

22 in the presence of the witness and that

23 there is no objection to that at this

24 time, nor will there be an objection to

25 it at the future date.

1 PATRICK PITTMAN - CONFIDENTIAL 7

2 MR. WEINBERG: Yes, that's fine.

3 MS. STRAUB: Yes.

4 THE REPORTER: Ms. Straub, can you

5 represent that to the best of your

6 knowledge and belief the witness

7 appearing today via web conference is in

8 fact Patrick Pittman?

9 MS. STRAUB: Yes, I can.

10 -oOo-

11 P A T R I C K P I T T M A N, having been first

12 duly sworn by a Notary Public of the State of

13 New York, was examined and testified as follows:

14 EXAMINATION BY

15 PATRICK PITTMAN, ESQ.:

16 Q State your name for the record, please.

17 A Patrick Pittman.

18 Q State your address for the record,

19 please.

20 A 3417 Decker Lake Drive, Salt Lake City,

21 Utah 84119.

22 Q Good morning. My name is Seth Weinberg.

23 I'm an attorney for the plaintiff, Gustavia Home,

24 LLC, in this adversary proceeding.

25 Before we begin, I'd like to let you know

1 PATRICK PITTMAN - CONFIDENTIAL 8

2 a few ground rules for this deposition. If you

3 don't understand a question, I ask you to please let

4 me know immediately.

5 Do you understand?

6 A Yes.

7 Q Please make sure that all of your

8 responses are verbal. The court reporter cannot

9 take down nods or gestures. Please allow me to

10 finish a question before answering.

11 Do you understand?

12 A Yes.

13 Q The court reporter cannot take down both

14 of us speaking at the same time. Please wait until

15 I'm finished asking my question before you begin

16 your response.

17 Do you understand?

18 A Yes.

19 Q If you need to take a break at any time,

20 tell me and we'll take a break. I only ask that you

21 answer any pending questions before we take a break.

22 Do you understand?

23 A Yes.

24 Q Mr. Pittman, have you taken any

25 medication, drugs or had any alcohol within the last

1 PATRICK PITTMAN - CONFIDENTIAL 9

2 24 hours that would impair your ability to testify
3 here today?

4 A No.

5 Q Mr. Pittman, why were you designated as
6 the person to sit for this deposition?

7 A Why was I designated?

8 Q Yes.

9 A Because I've done depositions before.

10 Q Specific to this case is there a reason
11 why you were selected?

12 A Not that I'm aware.

13 Q Are you an employee of the defendant
14 Deutsche Bank National Trust Company as Trustee
15 Under the Pooling and Servicing Agreement Related to
16 Impac Secured Assets Corp., Mortgage Pass-Through
17 Certificates Series 2006-3?

18 A I'm an employee at Select Portfolio
19 Servicing, who is our client. We are their agent
20 and attorney-in-fact.

21 Q Select Portfolio Servicing agent and
22 attorney-in-fact for who?

23 A For the defendant in this matter. For
24 Deutsche Bank.

25 Q Is there some sort of documentation that

1 PATRICK PITTMAN 10

2 discusses that relationship?

3 A We have power of attorney.

4 Q Do you have a copy of that power of
5 attorney with you?

6 A No.

7 Q Has your counsel been provided a copy of
8 that power of attorney?

9 A I believe so.

10 MR. WEINBERG: I would like that
11 power of attorney to please be
12 produced.

13 MS. STRAUB: It's marked.

14 Q Mr. Pittman, have you reviewed that power
15 of attorney?

16 A I have seen it before, yes.

17 Q What does it state as to the relationship
18 between Select Portfolio Servicing and the
19 defendant?

20 A Deutsche Bank, it reflects our assignment
21 as servicing agent and attorney-in-fact on their
22 behalf.

23 Q When was it effective? When did it
24 become effective?

25 A I believe it was December 2016 or January

1 PATRICK PITTMAN - CONFIDENTIAL 11

2 2017.

3 Q Is Select Portfolio Servicing the master
4 servicer?

5 A I don't know if we currently are but at
6 the time I believe we were subservicing but it would
7 be reflected on the power of attorney itself.

8 Q The relationship would be reflected on
9 the power of attorney?

10 A Yes.

11 Q The power of attorney would reflect if
12 you're the master servicer or the subservicer?

13 A Or servicer. I believe it reflects that
14 we're the servicer and we have -- we've been
15 appointed attorney-in-fact.

16 Q Have you reviewed the pooling and
17 servicing agreement?

18 A For this, no.

19 Q Is there a pooling and servicing
20 agreement?

21 A I believe there is, yes.

22 Q You believe there is one but you haven't
23 reviewed it?

24 A I may have reviewed it before for other
25 parties for which we're servicing on behalf of our

1 PATRICK PITTMAN - CONFIDENTIAL 12

2 clients but regarding this matter I did not review

3 the pooling and servicing agreement.

4 MR. WEINBERG: I'd like to demand a

5 copy of the pooling and servicing

6 agreement as well.

7 Q Mr. Pittman, how did you prepare for the

8 deposition today?

9 A Reviewed those documents that I believe

10 were a part of production for today's matter.

11 Q Did you speak with anyone to prepare for

12 the deposition?

13 A Outside of counsel, no.

14 Q So you just spoke to counsel at Parker

15 Ibrahim?

16 A That is correct.

17 Q To whom did you speak?

18 A I spoke to both counsel that's a part of

19 today's video call.

20 Q So you spoke to Mr. Pollock and also to

21 Karena?

22 A That's correct.

23 Q Other than the documents that were

24 produced in the document production, there are no

25 documents that you reviewed for this today?

1 PATRICK PITTMAN - CONFIDENTIAL 13

2 A Not that I recall, but as we go down this
3 deposition, I'll probably remember the extent of the
4 documents that I reviewed.

5 Q There was no review of an internal loan
6 file?

7 A I reviewed documents that were a part of
8 our business records so it depends on which
9 documents you're specifically speaking of.

10 Q I understand.
11 So were those electronically imaged
12 documents or hard copy documents?

13 A They were soft copy.

14 Q I'm sorry, what?

15 A Soft copy documents. Imaged.

16 Q I'm sorry, I'm not familiar with the term
17 soft copy. Does that mean it's a computer image?

18 A Computer image, that's correct.

19 Q Okay. Thank you.

20 So you don't recall exactly what
21 documents that you reviewed, you just know that they
22 were documents that were reviewed on the computer
23 servers?

24 A That's correct. I basically reviewed
25 those documents that were a part of today's

1 PATRICK PITTMAN - CONFIDENTIAL 14

2 matter.

3 Q Do you have copies of all those documents
4 with you today that you reviewed?

5 A I have no copies with me today.

6 MR. WEINBERG: I'd like to call for
7 production of whatever was reviewed in
8 preparation in addition to what has
9 already been produced.

10 Q Mr. Pittman, what are the names of the
11 borrowers that relate to the loan that Deutsche Bank
12 allegedly owns?

13 A Cherry Francis.

14 Q Do your records indicate if Cherry
15 Francis goes by any other names or aliases?

16 A Not that I recall.

17 Q What is the property address that the
18 mortgage allegedly secures?

19 A I don't remember the street number, but I
20 do recall it's in Jamaica, Queens, and I believe
21 it's on 155th Street, but I don't recall the
22 property number.

23 Q Okay. That's fine.

24 Do you know who currently owns this
25 loan?

1 PATRICK PITTMAN - CONFIDENTIAL 15

2 A Can you define ownership.

3 Q Who has physical possession of the

4 endorsed note?

5 A Select Portfolio Servicing does on behalf

6 of Deutsche Bank who is trustee to the trust.

7 Q So Select Portfolio Servicing has

8 physical possession?

9 A Select Portfolio Servicing has either

10 physical possession or it's being held by an agent

11 on behalf of SPF. I did not seek the location of

12 the note but I do reflect that it's notated within

13 our system that Select Portfolio Servicing was in

14 receipt of the note.

15 Q Is that a standard practice for Select

16 Portfolio Servicing?

17 A Is what a standard practice?

18 Q To hold endorsed notes on behalf of

19 securitized trusts.

20 A It's a standard practice that any

21 servicer who has -- who's attorney-in-fact for their

22 clients can hold the original documents either

23 physically themselves or through an agent that they

24 have hired to do so.

25 Q So is Select Portfolio Servicing the

1 PATRICK PITTMAN - CONFIDENTIAL 16

2 custodian?

3 A I don't recall who the custodian is for
4 the pooling and servicing agreement. However, I did
5 state that we are servicing agent and attorney-in-
6 fact for Deutsche Bank.

7 Q So is there some sort of custodial letter
8 that is in effect that states when Select Portfolio
9 Servicing took possession of the note?

10 A Well, again, there's a power of attorney
11 that's from either December of 2016 or January 2017
12 that reflects our role with the trustee for the
13 trust.

14 Q Okay, but is there a specific document
15 that memorializes when Select Portfolio Servicing
16 took physical possession of the note?

17 A Not that I'm aware of.

18 Q Why are you under the impression that
19 Select Portfolio Servicing has physical possession
20 of the note?

21 A Either physical possession of the note or
22 possession of the note through one of our vendors is
23 what I stated earlier and I have that understanding
24 because we are servicing this loan on behalf of
25 Deutsche Bank and that is one of the requirements

1 PATRICK PITTMAN - CONFIDENTIAL 17

2 for servicers is to make sure that the note --
3 original note is in its proper place.

4 Q If Select Portfolio Servicing was not in
5 physical possession, who would the vendor be that is
6 in physical possession?

7 A Well, it depends. It depends because, as
8 I stated, an agent on behalf of the servicer could
9 also be holding the note on behalf of the trustee
10 for the trust, whether it's counsel or whether it's
11 some document control office that has been hired on
12 behalf of the servicer.

13 Q So is it fair to say that you're not a
14 hundred percent sure where the note is at this
15 point?

16 A It's fair to say that I did not look for
17 the location of the original note but because we
18 have been servicing this loan for three years I have
19 no doubt that we either are in possession of the
20 original note or it's being held by counsel, hired
21 counsel by SPS, or one of our document control units
22 within SPS.

23 Q The standard practice is that there is
24 not some sort of custodial letter that states where
25 the note currently is?

1 PATRICK PITTMAN - CONFIDENTIAL 18

2 A The standard practice is that the
3 servicer would be aware of the location of the
4 original note.

5 Q Okay.

6 I'm just trying to ascertain how we can
7 get the information as to where the original note
8 is.

9 A Well, you can request that additional
10 information if you would like, but I did not search
11 for the location of the original note.

12 Q Okay.

13 So you stated you're employed by Select
14 Portfolio Servicing. I'm just going to from this
15 point forward refer to them as SPS.

16 Is that okay?

17 A Yes.

18 Q Your pay stubs come from SPS?

19 A I'm employed by SPS.

20 Q What is your official position?

21 A Litigation director.

22 Q What types of things is a litigation
23 director at SPS responsible for?

24 A I assist with the management of files
25 that we're servicing on behalf of our clients that

1 PATRICK PITTMAN - CONFIDENTIAL 19

2 are in litigation status.

3 Q Can you elaborate on what exactly that

4 means?

5 A Well, I can give you an example of what

6 that means.

7 Q That would be fine.

8 A I'm here doing -- being deposed for this

9 matter.

10 Q Is there some sort of differentiation

11 between -- I guess I'm trying -- what is SPS's

12 definition of a litigated matter? I guess that's my

13 question.

14 A Well, if there's any one of our loans

15 that we're servicing is being contested legally, any

16 claims that -- excuse me -- any complaints that have

17 been filed, I'm one of the ones who can attend a

18 trial for that matter or a deposition for that

19 matter, as I am here today.

20 Q How long have you been employed by SPS?

21 A Since 2002.

22 Q Did you start as a litigation director at

23 SPS?

24 A I did not.

25 Q What were your prior positions?

1 PATRICK PITTMAN - CONFIDENTIAL 20

2 A REO manager and REO director.

3 Q Before working at SPS, for whom did you

4 work?

5 A Freddie Mac.

6 Q For how long did you work at Freddie

7 Mac?

8 A Approximately 11 years.

9 Q Just for timeline purposes, that was from

10 what year to what year, approximately?

11 A '91 to 2002.

12 Q What positions did you hold at Freddie

13 Mac?

14 A REO manager.

15 Q Prior to working at Freddie Mac, where

16 were you employed?

17 A That was it, no other.

18 Q That was it?

19 A Yes.

20 Q You were in school before working at

21 Freddie Mac or some other position outside of real

22 estate?

23 A College.

24 Q College, understood.

25 So you previous stated that SPS is the

1 PATRICK PITTMAN - CONFIDENTIAL 21

2 servicer for the defendant Deutsche Bank National
3 Trust Company, that's correct, right?

4 A Yes.

5 Q At what point did SPS become the
6 servicer?

7 A December 2016.

8 Q Prior to SPS becoming the servicer, who
9 was the servicer for this loan?

10 A Bank of America.

11 Q Do you have any indication from what
12 dates Bank of America was the servicer?

13 A I don't recall the date Bank of America
14 became the servicer, but I do recall that this
15 originated in 2006 and I believe it was placed into
16 a trust that same year, actually I believe the very
17 next month or so.

18 Q Was there a servicer in place prior to
19 Bank of America?

20 A Well, there was the original lender Impac
21 Funding. I don't know if they were servicing it
22 themselves or if they even had it long enough to be
23 able to service it in collecting payments, but the
24 trust was created in, I believe, September of
25 2006.

1 PATRICK PITTMAN - CONFIDENTIAL 22

2 Q So Bank of America was the initial
3 servicer following the originator?

4 A I would say so. I'm not too sure
5 though.

6 Q Have you ever worked at Bank of
7 America?

8 A No.

9 Q Are you familiar with Bank of America's
10 internal procedures, any of them?

11 A Generally, yes, I am.

12 Q You're generally familiar with Bank of
13 America's procedures?

14 A Yes.

15 Q How so?

16 A I've been trained by Bank of America.

17 Q Could you speak to that? How have you
18 been trained by Bank of America?

19 A I've trained through a initial webinar on
20 Bank of America's practices and procedures for
21 servicing and we continuously get refresher courses
22 on those practices.

23 Q So you would say that you're familiar
24 with their practices and procedures?

25 A Yes.

1 PATRICK PITTMAN - CONFIDENTIAL 23

2 Q How does SPS store its loan records?

3 A We have an imaging system for which
4 documents are scanned and placed into our imaging
5 system.

6 Q Do you have access to that imaging
7 system?

8 A Yes.

9 Q Is there a procedure in place for how
10 documents are stored in that imaging system?

11 A I believe there's a procedure that
12 reflects the steps in imaging documents.

13 Q Do you know what those steps are?

14 A Generally.

15 Q Could you walk us through that process,
16 please?

17 A What part of the process are you asking
18 about?

19 Q The standard procedure for how those
20 documents are imaged.

21 A Well, standard procedure would be that
22 the documents are scanned through one of our systems
23 and we have a department that overlooks that process
24 and ensures that the document is saved in its proper
25 place in our imaging system.

1 PATRICK PITTMAN - CONFIDENTIAL 24

2 Q Other than the imaging system, are there
3 any other electronic records systems?

4 A There's just one imaging system.

5 Q Does that imaging system keep track of
6 data for the loans, such as payment histories,
7 expenditures, things of that nature?

8 A Yeah, the system that tracks payments and
9 things of that nature, as you said, is our system
10 platform.

11 Q Do you have access to the system
12 platform?

13 A Yes, I do.

14 Q You said you're generally familiar with
15 Bank of America's procedures for imaging documents.
16 Are you familiar with their procedures for their
17 system platform?

18 A I've seen it before.

19 Q Do you have an understanding of how they
20 maintain their data for each one?

21 A It depends on what your specific question
22 is regarding that but it's a standard practice that
23 we also have that same practice.

24 Q So SPS and Bank of America have the same
25 practice for tracking expenditures and payments and

1 PATRICK PITTMAN - CONFIDENTIAL 25

2 things like that?

3 A Same general practice, yes.

4 Q What is that general practice?

5 A Depends on which line you're speaking
6 about. You have to be more specific.

7 Q Let's talk about tracking payments by
8 borrowers.

9 A They maintain -- SPS maintains a payment
10 history record which reflects all the payments that
11 have come in for that account. They're notated
12 within that account. They're looked at at the time
13 of the event by people of knowledge and that also is
14 the same as for payments that are made by the
15 servicer on behalf of the borrower for escrow
16 payments as taxes and insurance. So the payment
17 histories reflect all disbursements, advances that
18 are made on that account

19 Q Are those payment histories made
20 contemporaneously?

21 A They're made near at the time of the
22 events.

23 Q Are there imaged documents for
24 expenditures?

25 A If any records come into the possession

1 PATRICK PITTMAN - CONFIDENTIAL 26

2 of Bank of America as well as SPS for a particular
3 loan, those documents get imaged into the system.

4 Q Are there documents, in this case, such
5 as receipts or wire transfer confirmations or proofs
6 of payment for escrow disbursements?

7 A I did not seek receipts for escrow
8 amounts.

9 Q You didn't seek receipts for escrow
10 amounts?

11 A Well, let me change that. I didn't look
12 for receipts, but I did see that escrow advances
13 were being made by the servicer.

14 Q You're talking the current servicer, SPS,
15 or the prior servicer, Bank of America?

16 A Both.

17 Q How do you know that?

18 A I reviewed the payment history.

19 Q We'll talk more in depth about the
20 payment history but generally how do you know from
21 the payment history that escrow disbursements have
22 been made?

23 A Because it reflects city taxes or
24 homeowners insurance on the payment history on the
25 line items that were used as -- to be notated that

1 PATRICK PITTMAN - CONFIDENTIAL 27

2 those payments were being made.

3 Q Are there typically some sort of checks,
4 canceled checks, or payment receipts or confirmation
5 of payment receipt or wire transfers or any type of
6 record that's saved within SPS's service?

7 A It depends.

8 Q Is it kind of like the honor system,
9 where I tell you that I'm sending you a check and
10 even if you don't necessarily receive the check or I
11 don't necessarily send the check we're just supposed
12 to rely on oh, he said he sent it so he actually
13 paid it?

14 A The servicer for the terms of the
15 mortgage usually is the ones that manage the escrow
16 payments on the account on behalf of the borrower so
17 that's not something that's a new process. You
18 know, that's a process that's been going on for some
19 time, but it depends on the county, it depends on
20 the insurance office that's being worked with for
21 hazard insurance and that would possibly determine
22 what kind of backup that we would receive, if any,
23 from the -- from those companies.

24 Q What's the backup in this case?

25 A Again, I did not look for receipts of

1 PATRICK PITTMAN - CONFIDENTIAL 28

2 escrow advances, but I did see on the reports that
3 escrow advances were made on this property.

4 Q Sir, can you take a look for me at the
5 exhibit that has been marked as Exhibit 1.

6 Mr. Pittman, have you ever seen this
7 document?

8 A I believe so.

9 Q You believe you've seen this document.
10 If you haven't seen this document, has anyone else
11 at SPS seen this document?

12 A I don't know who at SPS has seen any of
13 these documents, but I believe I've seen this
14 document before.

15 Q I asked the question because you said
16 you're head of litigation. This is a litigation
17 document so I'm just trying to ascertain who would
18 have reviewed this document.

19 A Again, I don't recall if I reviewed this
20 document, but all I see is the header so maybe if we
21 could scroll down some I could determine whether or
22 not I've seen it.

23 Q Sure. Sure. That sounds fair.

24 MR. WEINBERG: Can you please
25 scroll.

1 PATRICK PITTMAN - CONFIDENTIAL 29

2 THE WITNESS: Okay, that's enough.

3 A I believe I have seen this document
4 before.

5 Q Mr. Pittman, what is this document?

6 A It's titled Defendant's Responses and
7 Objections to Plaintiff's First Request for
8 Production of Documents.

9 Q If we scroll down to page six of Exhibit
10 1 and I direct your attention to response to request
11 number one.

12 A Okay.

13 Q Could you please read the first sentence
14 of that response.

15 A In addition to the general objections
16 above, defendant objects to this demand as overly
17 broad, unduly burdensome, and not reasonably
18 calculated to lead to the discovery of relevant,
19 admissible evidence.

20 Q Mr. Pittman, what does unduly burdensome
21 mean?

22 MS. STRAUB: Objection. Calls for
23 a legal conclusion.

24 He can answer if he knows.

25 A I believe that's a legal term and it

1 PATRICK PITTMAN - CONFIDENTIAL 30

2 would require a legal response.

3 Q Mr. Pittman, did you have any
4 participation in preparing this response?

5 A Not that I recall.

6 Q Do you know who at SPS would have had
7 participation in preparing this response?

8 A No.

9 Q Is there a system of internal comments at
10 SPS which tracks individuals that are working on
11 certain files?

12 A Yes.

13 Q Would that system of internal comments
14 indicate who took part in the preparation of this
15 response?

16 A I don't know. I did not seek that
17 information.

18 Q Does it typically?

19 A I guess it could, but I don't know that
20 it does for this.

21 Q I asked that question because you said
22 you're head of litigation. I'm assuming that there
23 has to be a procedure in place for preparation of
24 discovery responses. Is there a procedure in place?

25 A Correction. I did not state that I was

1 PATRICK PITTMAN - CONFIDENTIAL 31

2 the head of any department. I gave you my title at
3 SPS, which is litigation director.

4 Q Sorry. Litigation director.

5 As litigation director, are you aware of
6 an internal procedure for the preparation of
7 discovery responses.

8 A I have been a part of that process
9 before.

10 Q Is there a procedure in place?

11 A Normally we'll get the information from
12 counsel. I'm not sure what the process was for this
13 particular matter, but I don't doubt that it
14 followed our general practices for it.

15 Q Did counsel prepare this, this
16 response?

17 A I don't know. I mean I haven't seen the
18 signature at the bottom to see who signed it, but,
19 again, I don't have any reason to believe that this
20 did not follow our general practice.

21 Q Sure.

22 Could you speak to what the general
23 practice is?

24 A It would be received by opposing counsel
25 and reviewed by our internal personnel and then

1 PATRICK PITTMAN - CONFIDENTIAL 32

2 signed off on. If any changes need to be made,
3 those changes would be made prior to this being
4 admitted as a request for production.

5 Q Your counsel drafts the response, that's
6 correct?

7 A They can, yes.

8 Q Then they send it to your litigation
9 department for approval, is that accurate?

10 A Can the document be scrolled down to the
11 signature page.

12 Q Sure.

13 MR. WEINBERG: Can you please
14 scroll down to the signature page.

15 THE WITNESS: Can you go back to
16 the top of this particular page.

17 MR. WEINBERG: Thank you.

18 A Okay.

19 Q Do you have any recollection of
20 participating in the preparation of this document?

21 A No. I wanted to see who signed off on
22 the document, whose signature was reflected on this
23 last page. That's the reason why I wanted to see
24 this page. That was it.

25 Q Whose signature is on this page?

1 PATRICK PITTMAN - CONFIDENTIAL 33

2 A Our counsel, Karena J., last name spelled
3 S-t-r-a-u-b, and the date of the document shows to
4 be February 28, 2020.

5 Q I just want to direct you to Exhibit G,
6 which has been marked as 7.

7 Mr. Pittman, have you ever seen this
8 document?

9 A Yes, I have.

10 Q What is this document?

11 A It's titled mortgage.

12 Q I'm sorry, you cut out. What did you
13 say?

14 A It's titled mortgage.

15 Q What is the date of this document?

16 A August 25, 2006.

17 Q Who is the borrower?

18 A The borrower's name is Cherry Francis, a
19 married woman, and then written under that is James
20 France.

21 Q Do you have any indication why James
22 France is handwritten in?

23 A I do not.

24 Q Who is the lender on this mortgage?

25 A In section D, it's reflected that the

1 PATRICK PITTMAN - CONFIDENTIAL 34

2 lender is Impac Funding Corporation.

3 Q Do you have any indication from your

4 review of the loan file if this loan is insured by

5 FHA?

6 A I am not.

7 Q Would the loan file typically indicate if

8 a SPS loan was insured by FHA?

9 A Yes, but I did not seek that

10 information.

11 Q If asked, you could find it?

12 A Yes.

13 Q Is there any indication if this loan is

14 owned by or backed by Fannie Mae or Freddie Mac?

15 A Not that I recall.

16 Q Would SPS's internal records typically

17 indicate if it was?

18 A Yes.

19 Q So if we requested that information you'd

20 be able to provide it?

21 A That information could be provided.

22 Q Referring back to Exhibit 7, how much

23 money did this mortgage secure?

24 A \$371,250.

25 Q Referring back to this exhibit, what was

1 PATRICK PITTMAN - CONFIDENTIAL 35

2 the address of the property securing the mortgage?

3 A Address reflected is 115-45 155th Street,

4 Jamaica, New York, ZIP code 11435.

5 Q Does this address match SPS's internal

6 records?

7 A As the subject property address, yes.

8 Q I direct you to what has been marked as

9 Plaintiff's 4, please.

10 Mr. Pittman, have you ever seen this

11 document?

12 A Yes, I have.

13 Q Can you identify this document?

14 A Yes. It's a copy of the adjustable rate

15 note.

16 Q What is the date of this document?

17 A The same date of the mortgage, August 25,

18 2006.

19 Q Who is the originator of the note?

20 A The reflected lender is Impac Funding

21 Corporation.

22 Q Mr. Pittman, how many pages is this

23 document?

24 A (No response)

25 Q Do you need us to scroll through it?

1 PATRICK PITTMAN - CONFIDENTIAL 36

2 A Well, the page number reflects that

3 there's 11 pages of this document. I haven't

4 counted the document myself, but it says -- it

5 reflects there being 11 pages.

6 Q How many pages is the note itself?

7 A I have to go through it then.

8 Q All right. Let's go through it.

9 MR. WEINBERG: Can we please scroll

10 through the note.

11 A There seem to be 10 pages in this

12 document.

13 THE WITNESS: Can you go to the

14 first page. I'm sorry.

15 A There seem to be 10 pages in this

16 document, 11 pages if you count the cover page that

17 is Exhibit D.

18 Q You're saying there are eleven pages if

19 you count the page that states D on the front of

20 it?

21 A Yes.

22 MR. WEINBERG: Can we please go to

23 the sixth page of this exhibit.

24 Q Mr. Pittman, is this a separate page?

25 A What do you mean is it a separate page?

1 PATRICK PITTMAN - CONFIDENTIAL 37

2 Q Is this its own page?

3 A I believe this is --

4 THE WITNESS: Can you scroll back
5 up just a little bit.

6 A Page seven is, I believe, a copy of the
7 back page of page six. So page six is the signature
8 page. I believe page seven is a copy of the back of
9 that signature page that reflects that stamped
10 endorsement.

11 Q Why do you believe that?

12 A Because of the way it's copied and that's
13 usually what happens. You're not gonna have just a
14 whole blank page with nothing on it except for a
15 stamp, the endorsement stamp. That would be on the
16 back page, and it's commonly done this way.

17 Q Have you seen the original note, the wet
18 ink note?

19 A Not that I recall, and, again, I stated
20 that I did not seek the physical location of that
21 note, but I believe it is still in the possession of
22 the defendant in this matter.

23 MR. WEINBERG: I would like to call
24 for production and inspection of the wet
25 ink note.

1 PATRICK PITTMAN - CONFIDENTIAL 38

2 If we could go back to the first
3 page of the copy of the note that was
4 produced.

5 Q What is the interest rate?

6 A It's 6.625 percent.

7 Q Is that a fixed rate?

8 A This is an adjustable rate note.

9 Q What does that mean?

10 A Okay.

11 Under section three, it states -- wait
12 just a second. I'm reading it.

13 Q Take your time.

14 A In section 4A, it's titled change dates.
15 It reads, The interest rate I will pay may change on
16 the first day of September 2011 and may change on
17 that day every sixth month thereafter. Each date on
18 which my interest rate could change is called a
19 change date.

20 Q Do you have any indication how many times
21 the interest rate has adjusted on this loan?

22 A I don't recall. I believe there was
23 modifications on this loan. I don't recall off the
24 top of my head if those modifications reflect a
25 interest rate change, but I do believe that one of

1 PATRICK PITTMAN - CONFIDENTIAL 39

2 the modifications was one that's at issue for
3 today's matter.

4 Q We will definitely talk about the
5 modification, but do you have any records that
6 discuss interest rate adjustments prior to the
7 modifications?

8 A Prior to the modifications?

9 Q Yes, prior to the modifications.

10 A Not that I'm aware of.

11 Q In terms of the endorsed note itself, do
12 you have any internal records that discuss when the
13 note was first delivered to Deutsche Bank Nation
14 Trust Company?

15 A I have no reason to believe that it was
16 not turned over to the trustee for the trust --
17 wait, let me change that. I don't have any reason
18 to believe that the trustee for the trust did not --
19 was not in receipt of the original documents at the
20 time of -- at the time the trust was created, which,
21 again, I stated was September 2006.

22 Q Are there any records that would indicate
23 when that delivery took place?

24 A Again, I stated that I had not reviewed
25 the pooling and servicing agreement, which is where

1 PATRICK PITTMAN - CONFIDENTIAL 40

2 it could reflect that the documents were received by
3 the closing or cutoff date reflected on those
4 documents -- or the agreement. Excuse me.

5 Q Are you very familiar with pooling and
6 servicing agreements generally?

7 A Pooling and servicing agreements are
8 basically a legal document so I would not be able to
9 speak to it probably as much as you would like for
10 me to.

11 Q I understand.

12 You're not sure who the custodian of the
13 note was at original delivery to Deutsche Bank?

14 A I believe the pooling and servicing
15 agreement, for which, again, I have not reviewed,
16 would reflect the custodian.

17 MR. WEINBERG: Again I'd like to
18 demand a copy of the pooling and
19 servicing agreement.

20 Q I'd like to direct you to the exhibit
21 marked as E or 5.

22 Mr. Pittman, are you familiar with this
23 document?

24 A Well, the document --

25 MR. WEINBERG: Could we scroll to

1 PATRICK PITTMAN - CONFIDENTIAL 41

2 the next page, please.

3 THE WITNESS: Can you slowly scroll
4 all the way down to the last page.

5 Q Mr. Pittman, are you familiar with this
6 document?

7 A I am.

8 Q What is this document?

9 A Loan modification and consolidation.

10 Q What is the date of this document?

11 A There's a document date of -- on the
12 recording and endorsement cover page of December 29,
13 2011.

14 Q Who are the parties to this agreement?

15 A Bank of America and the borrower, Cherry
16 Francis.

17 MR. WEINBERG: Can we scroll down,
18 please.

19 Q This is the second page of Exhibit 5.
20 The bottom of it is labeled DBNT0058.

21 Mr. Pittman, what does it state the
22 original mortgage was on this loan?

23 A \$371,250.

24 Q What does it state the new mortgage
25 amount was?

1 PATRICK PITTMAN - CONFIDENTIAL 42

2 A \$500,860.44.

3 Q What does it state the unpaid principal
4 balance is?

5 A \$371,250.00.

6 Q What does it state the new money is?

7 A Well, the amount that's reflected
8 underneath the unpaid principal amount is
9 \$129,610.44.

10 Q What is your understanding of what the
11 term new money is or means?

12 A Well, I believe that that -- I have no
13 understanding for the term new money, but that
14 amount is actually the capitalized amount.

15 Q So new money means capitalized amount?

16 A Well, I don't know what new money means
17 as there was no money that was added to this loan,
18 but a capitalized amount, which included the
19 outstanding debt of the insurance, taxes and
20 interest, and that amount is the \$129,610.44
21 amount.

22 Q Did the borrower, Cherry Francis, remain
23 current under this modification plan?

24 A She is current. I don't believe it's
25 under this modification plan.

1 PATRICK PITTMAN 43

2 Q So she's current in general right now on
3 the loan?

4 A Yes, from what I recall.

5 Q Was there a subsequent loan
6 modification?

7 A Yes.

8 Q I'd like to direct you to a document
9 marked as Plaintiff's F or 6.

10 Mr. Pittman, are you familiar with this
11 document?

12 THE WITNESS: Can you keep
13 scrolling down, please.

14 Okay. I'm done.

15 Q Are you familiar with this document?

16 A Yes.

17 Q What is this document?

18 A It's a loan modification that was
19 executed in 2018.

20 Q Who are the parties?

21 A Select Portfolio Servicing and the
22 borrower, Cherry Francis.

23 Q You stated that the borrower is current
24 under this modification?

25 A As of today I believe she is but I didn't

1 PATRICK PITTMAN - CONFIDENTIAL 44

2 look at the status.

3 Q I direct you to Plaintiff's H, which is

4 marked as 8. Mr. Pittman, can you take a look at

5 Plaintiff's H, please.

6 A Okay. This is the modification

7 analysis.

8 Q You're familiar with this document?

9 A Yes, I am.

10 Q Is this document an SPS record or Bank of

11 America record?

12 A It's the record they received from Bank

13 of America incorporating this record into our

14 business records.

15 Q You said it was incorporated into your

16 business records?

17 A Yes.

18 Q Can you explain what that means?

19 A This is a Bank of America document as

20 they used this document during their -- no. Excuse

21 me. I'm sorry. I said this was an SPS document.

22 This is an SPS document.

23 Q This is an SPS document?

24 A Wait a minute. Just a second.

25 Okay.

1 PATRICK PITTMAN - CONFIDENTIAL 45

2 This is dated 2012. So that signature in
3 2012. So this was a Bank of America document, a
4 modification analysis. SPS has it as it was a part
5 of the documents and data we received from Bank of
6 America at the time of the servicing transfer of
7 this loan from bank of America to Select Portfolio
8 Servicing.

9 Q You said that that occurred on or around
10 what date?

11 A We started servicing December 2016.

12 Q Do you know Richard J. Pawson?

13 A Not that I'm aware of.

14 Q It says that he prepared this document.
15 Can you confirm that?

16 A Outside of his signature that's reflected
17 I cannot.

18 Q Do you know what the term prepared by
19 means in Bank of America's internal lingo?

20 A Are you seeking a word that --

21 Q I'm trying to ascertain what it means to
22 prepare a modification analysis for Bank of America.

23 A I'm not sure what their term of prepared
24 by means, but generally it means the employee that
25 gathered all of the information that ran this

1 PATRICK PITTMAN - CONFIDENTIAL 46

2 analysis -- or, excuse me, the person that ran this
3 analysis for the purposes of creating a modification
4 for the borrower.

5 Q This analysis was for which
6 modification?

7 A The modification that was December 2011,
8 January 2012.

9 Q So this is a Bank of America document?

10 A That is correct.

11 Q How are you able to testify to the
12 accuracy of this document?

13 A The accuracy of it?

14 Q Yes.

15 A Well, again, Select Portfolio Servicing,
16 who is currently servicing this loan, all
17 information that's received from the prior servicer
18 is reviewed, it's a data vetting process that all
19 the information goes through before SPS takes on any
20 loan, for the purposes of further servicing of that
21 loan.

22 This would have been one of the documents
23 that we would have received from Bank of America
24 that was reviewed for the purposes of us continuing
25 the servicing of this loan for the defendant in this

1 PATRICK PITTMAN - CONFIDENTIAL 47

2 matter.

3 This document also reflects the same
4 amount on the second page of this document that read
5 new money, but I stated that was really the
6 capitalized amount, but this document reflects that
7 same amount of \$129,610.44, and, as I stated, that
8 includes lost interest, escrow payments, which are
9 taxes and hazard insurance.

10 Q So during the transition between
11 servicers there's someone at SPS who would review
12 this document for accuracy?

13 A There's a department that reviews
14 documents for accuracy.

15 Q In reviewing them for accuracy, what does
16 that mean? What's the procedure?

17 A Well, if there are any data discrepancies
18 that are found those discrepancies have to be cured
19 prior to that loan being able to be transferred to
20 SPS for the further servicing of the loan.

21 Q So are you telling me that somebody went
22 through this document line by line with the other
23 servicing records to ensure that it was accurate?

24 A I'm telling you that calculations were
25 done regarding -- calculations were done for payment

1 PATRICK PITTMAN - CONFIDENTIAL 48

2 histories and loan modification documents so
3 those -- so that the amounts that were sent over to
4 SPS were correct.

5 Q Somebody at SPS reviewed this document to
6 ensure that the figures were correct?

7 A Again, I believe this is one of the
8 documents that was received from Bank of America --
9 that were supercede from Bank of America for the
10 purposes of finding any data discrepancies and
11 calculations and if there are any data discrepancies
12 those discrepancies have to be cured prior to SPS
13 taking on the servicing of that loan.

14 Q I'm just trying to understand how would
15 they determine if there was a data discrepancy.
16 What is a data discrepancy?

17 A A data discrepancy could be a
18 miscalculation.

19 Q Did they review this document to ensure
20 that these calculations were correct?

21 A Again, this document was a part of the
22 documents that were received from Bank of America
23 for the purposes of taking the data and vetting the
24 data to make sure that there were no data
25 discrepancies in this loan.

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2 Q So let me ask the question a different
3 way. Please correct me if I'm wrong.

4 You previously testified that you're
5 familiar with Bank of America's procedures for
6 making business records, correct?

7 A I stated that I had a general knowledge
8 of Bank of America's process and procedures for
9 servicing loans due to my -- due to the training
10 that I received directly from Bank of America.

11 Q Do you have a knowledge as to Bank of
12 America's procedures for performing modification
13 analysis?

14 A I have a general knowledge as their
15 practices for creating such is very similar to the
16 practices that SPS has.

17 Q Are there people in the department at SPS
18 that vet these documents that have a general
19 knowledge of Bank of America's procedures for
20 creating modification analysis?

21 A It is a department, that is correct.

22 Q Those individuals have such general
23 knowledge?

24 A And work directly with Bank of America on
25 loans that do have data discrepancies that will not

1 PATRICK PITTMAN - CONFIDENTIAL 50

2 be able to transfer to SPS for the further servicing
3 of that loan until those data discrepancies have
4 been cured.

5 Q From your general knowledge of Bank of
6 America modification analysis, where do these
7 figures come from?

8 A From their system platform, information
9 that's entered into their system platform for the
10 purposes of servicing this loan, and again I state
11 that that information is entered near at the time of
12 the events by persons of knowledge. SPS rely on the
13 information that we receive from the prior servicer
14 for the purposes, again, of servicing that loan.

15 Q Someone at Bank of America took these
16 figures from their internal servicing platform to
17 create this modification analysis?

18 A Well, to determine -- to help determine
19 the kind of modification that the borrower would be
20 approved for.

21 Q Okay.

22 There's a section entitled loan
23 breakdown. Do you see where I'm looking?

24 A Yes.

25 Q Then there's a column that starts

1 PATRICK PITTMAN - CONFIDENTIAL 51

2 capitalizing.

3 A That's correct.

4 And, again, that's the same amount that
5 is reflected on that first page as new money, but,
6 again, it's not new money. That was the amounts
7 that capitalized and there's just a reamortization
8 of the existing debt.

9 Q Sure.

10 Can you read these figures from this
11 column for me, please.

12 A From the last column?

13 Q Yes, please.

14 A Capitalizing, \$129,610.44; number of
15 payments capped, 53; months capping, October 2007 to
16 February 2012; new effective date, March 1, 2012;
17 new UPB, \$500,860.44; capped over original UPB,
18 \$129,610.44; total cap fees, \$1,361; total cap
19 escrow, \$24,283.84; total fees and escrow,
20 \$25,644.84; delinquent interest, \$103,965.60.

21 Is that what you wanted me to read?

22 Q Yes, thank you.

23 What is your understanding of what
24 constitutes total cap fees?

25 A If you look over to the far left, you

1 PATRICK PITTMAN - CONFIDENTIAL 52

2 will see that first column that says late fee. Then
3 you will see property inspection, \$516. You'll see
4 foreclosure, \$200; recording fees, \$35; title fees,
5 \$400; court costs, \$210, and I believe that added up
6 gives you the \$1,361 for total cap fees.

7 Q From your review of the imaged files,
8 have you seen any receipts for any of these
9 expenses?

10 A As stated earlier in this deposition, I
11 did not review this loan seeking any receipts, but I
12 did review the payment history that reflects the
13 line items used to -- excuse me, that reflects the
14 inspections -- excuse me, that reflect the
15 interest -- lost interest, lost escrow amounts and
16 delinquent fees.

17 Q Mr. Pittman, can I direct you back to
18 Exhibit A, which is Plaintiff's 1. It's going to be
19 page seven of that document.

20 Could you read what's entitled request
21 number four, the bottom of that page.

22 A All documents, checks, drafts, bank wire
23 transfer receipts evidencing any payment, made by
24 defendant or its predecessors in interest since
25 August 25, 2006 for local taxes, assessments, water

1 PATRICK PITTMAN - CONFIDENTIAL 53

2 rates, insurance premiums, inspections and other
3 charges affecting property.

4 MR. WEINBERG: Can we scroll down
5 to page eight of that document.

6 Q Could you please read the response to
7 request number four.

8 A In addition to the general objections
9 above, defendant objects to the demand as overly
10 broad, unduly burdensome, and not reasonably
11 calculated to lead to the discovery of relevant,
12 admissible evidence. Defendant further objects to
13 this demand to the extent it seeks information
14 concerning transactions and events other than those
15 which are relevant to this litigation. Defendant
16 further objects to this demand to the extent it
17 seeks information concerning information that is
18 confidential, proprietary, or otherwise protected
19 from disclosure. Defendant further objects to this
20 demand to the extent they seek the release of
21 information constituting non-public personal
22 financial information subject to protection under
23 the Gramm-Leach-Bliley Act. Defendant further
24 objects to this demand to the extent it seeks the
25 production of documents protected by bank

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2 confidentiality laws or related law of foreign
3 nations, including, without limitation, laws or
4 regulations concerning data protection, privacy, and
5 bank secrecy, the disclosure of which would
6 contravene or violate laws or regulations, or expose
7 defendant to civil or criminal liability for
8 disclosures.

9 Subject to and without waiving the
10 foregoing objections, defendant refers to its Proof
11 of Claim, produced herewith, Bates number DBNT0001
12 through DBNT0065. Defendant reserves the right to
13 amend and/or supplement its response to this demand
14 as it acquires additional information or
15 documents.

16 Q Thank you, Mr. Pittman.

17 Did you have an opportunity to review the
18 Proof of Claim?

19 A I have seen the Proof of Claim.

20 Q Does the Proof of Claim contain any
21 checks, drafts, bank wire transfer receipts
22 evidencing any payment?

23 A Not that I recall, but I would need to
24 see the Proof of Claim to determine that.

25 Q In your review of SPS's imaged documents,

1 PATRICK PITTMAN - CONFIDENTIAL 55

2 have you seen any checks, drafts, bank wire transfer
3 receipts that evidence any payment of any of the
4 escrow items?

5 A Again, I did not review the loan for any
6 receipts. I reviewed the loan payment histories
7 that reflected the payments for fees, advances and
8 the reflection of lost interest.

9 Q I guess the thing that I just don't
10 understand is we just went through request number
11 four, which specifically asked for those documents.
12 Why wasn't the loan reviewed for those documents?

13 A I do not recall being a part of the
14 drafting of these requests.

15 Q You were part of the preparation for this
16 deposition?

17 A I was, and I reflected the information
18 that I did review prior to this deposition.

19 Q Please correct me if I'm wrong. You
20 stated that you reviewed the entire imaged file?

21 A I never said that.

22 Q Did you review the entire imaged file?

23 A No.

24 Q Do you think it's possible that there are
25 checks, drafts, bank wire transfer receipts that

1 PATRICK PITTMAN - CONFIDENTIAL 56

2 evidence the escrow payments?

3 MS. STRAUB: Objection. Calls for
4 speculation. He can answer if he knows.

5 A I do not know if it does or not.

6 However, it's no surprise that SPS or the prior
7 servicer, Bank of America, made payments to cover
8 for the escrow amounts because one example is the
9 loan or the property never went for tax sale. It
10 was never lost to tax sale, and, again, per the
11 terms of the mortgage, SPS does manage the accounts
12 for escrows.

13 Q Because the property never went to a tax
14 sale --

15 A I said that that was an example.

16 Q No, I understand that. I'm just trying
17 to follow the logic.

18 So because the property never went
19 through a tax sale and SPS has a payment history
20 that says that it paid the taxes and the insurance
21 that's proof that SPS paid the taxes and the
22 insurance?

23 A Bank of America also has a payment
24 history as well, but I gave an example that this
25 property never went to tax sale so obviously someone

1 PATRICK PITTMAN - CONFIDENTIAL 57

2 was paying the taxes.

3 Q Obviously somebody was paying them but
4 how are you certain that Bank of America or SPS was
5 paying them?

6 A Because I saw that it was in the payment
7 histories that escrow advancements were being made
8 on behalf of the borrower.

9 Q But you haven't seen any documentation
10 that shows that payments were actually sent
11 anywhere?

12 A There are documentation that reflects
13 that payments were made for the purposes of escrow,
14 taxes and insurance by the servicers.

15 Q But you haven't seen any checks, drafts,
16 bank wire transfer receipts or any other evidence
17 that payments were actually submitted to any
18 municipalities?

19 A Not stating that there is no other
20 further evidence but I just did not seek any
21 additional evidence outside of what's reflected
22 within the payment histories that those taxes and
23 insurance amounts were being paid by the servicer,
24 as reflected in the mortgage agreement.

25 MS. WEINBERG: We'd like you to

1 PATRICK PITTMAN - CONFIDENTIAL 58
2 consider this a further demand to please
3 re-review the imaged documents and
4 provide, as previously requested in
5 request four, all documents, checks,
6 drafts, bank wire transfer receipts
7 evidencing any payment made by defendant
8 or its predecessor in interest since
9 August 25, 2006 for local taxes,
10 assessments, water rates, insurance
11 premiums, inspections or any other
12 charges affecting the property.

13 Karena, should I serve a formal
14 demand or could we stipulate to that?

15 MS. STRAUB: If you could just send
16 a letter outlining the list of what
17 you've put on. I've been trying to keep
18 a record myself.

19 MR. WEINBERG: Sure. Sure.
20 Sure.

21 Q Do you have any knowledge of how Bank of
22 America tenders tax and insurance payments?

23 A I believe payments are made in bundles,
24 bulk payments for taxes and insurance. So it just
25 depends on the taxes. It just depends.

1 PATRICK PITTMAN - CONFIDENTIAL 59

2 Q Is that how SPS does the payments or how
3 Bank of America does the payments?

4 A Both.

5 Q You know for a fact that that's how Bank
6 of America does the payments?

7 A I said it depends, but they can make it
8 in bulk payments.

9 Q Do you have knowledge of how taxes are
10 paid to the New York City Department of Finance?

11 A For New York City, I have seen documents
12 reflecting bulk payments for properties for taxes.

13 Q So what does bulk payments mean? Can you
14 explain that?

15 A It could be multiple properties under one
16 payment that's made by the servicer.

17 Q Does the servicer receive some sort of
18 receipt or a confirmation that the payment was
19 received?

20 A Not always, or you can just go to the
21 county and ask for, you know, those receipts, but
22 they could probably just send just a report that
23 reflects the payments that were made, but it may not
24 necessarily show who the payments were being made by
25 but they would show the payments were being made and

1 PATRICK PITTMAN - CONFIDENTIAL 60

2 then with the payment history from the servicer
3 reflecting those payments being made then they could
4 match up that way.

5 Q Does the servicer send a check for the
6 bulk payments, is it a wire? How is the money
7 tendered?

8 A It is not only for one shoe fits all. It
9 depends on the county, it depends on the insurance
10 company. It could be bulk payments via wire through
11 a check. It just depends.

12 Q Do you have any specific knowledge to
13 this loan as to how the fees for the taxes and
14 insurance had been tendered?

15 A Are you meaning like was it a wire or a
16 check?

17 Q Yes. How was it paid?

18 A Again, I did not look any further into
19 how the payments were being made for the escrows
20 outside of what was reflected on the payment history
21 that escrow payments were being made.

22 Q Let's go back to H, Plaintiff's 8.

23 You had previously explained to me that
24 the total fees and escrow calculated was \$25,644.84,
25 is that accurate?

1 PATRICK PITTMAN - CONFIDENTIAL 61

2 A I don't recall us talking about the total
3 fees in escrow. I believe I was asked before about
4 the total cap fees.

5 Q In the column under loan breakdown, in
6 the column that starts capitalizing, what is the
7 total fees and escrow figure.

8 A \$25,644.84.

9 Q Of that figure, how much is expenditures
10 for taxes?

11 A I don't know if I can determine it from
12 just that as the total cap fee escrow amount is
13 \$24,283.84. That's insurance and taxes.

14 Q How much of the total cap escrow amount
15 is for insurance?

16 A I don't know if I can determine which
17 part of the \$25,000 amount for fees and escrows if
18 we can break it down by taxes versus insurance. I
19 did give you the breakdown of fees. I don't know if
20 this document reflects the breakdown of the taxes
21 and the insurance. However, as stated before, the
22 payment history reflects the amounts and dates of
23 the payments for taxes and insurance.

24 Q I'd like to direct you to Plaintiff's
25 Exhibit J, which is also Plaintiff's 10.

1 PATRICK PITTMAN - CONFIDENTIAL 62

2 THE WITNESS: Can you scroll to the

3 end.

4 A You can go ahead and ask your question.

5 Q Are you familiar with this document?

6 A Yes.

7 Q What is this document?

8 A It's a transaction history from Bank of

9 America.

10 Q How are you able to testify to this

11 document?

12 A It's a document I've seen before and I've

13 been trained on by Bank of America.

14 Q How are you certain that this document is

15 accurate?

16 A All information that we receive from Bank

17 of America, again, goes through a data vetting

18 process, which includes the calculations, and

19 because it's a part of our records lets me know that

20 this process was completed. This data vetting

21 process was completed otherwise we would not be

22 servicing this loan.

23 Q On service transfer, this document was

24 reviewed line by line for accuracy?

25 A It goes through a query. So it's not

1 PATRICK PITTMAN - CONFIDENTIAL 63

2 done by hand, but it goes by queries and we do that

3 for every property we're about to service. It goes

4 through the same process.

5 Q Let's look at the first page. It's

6 marked as page three. Let's look at where it says

7 1/23/2007, hazard insurance payment.

8 A Okay.

9 Q So what does this entry indicate? What

10 is it?

11 A It reflects that a payment in the amount

12 of \$2,265 was made for hazard insurance on

13 January 23, 2007.

14 Q Is there a receipt for this payment in

15 the SPS imaged documents?

16 A I do not know.

17 Q Is there a receipt for this payment in

18 Bank of America's imaged documents?

19 A I do not know.

20 Q Do you know to whom this payment was

21 made?

22 A I do not know, not from this report.

23 Q Would it be possible to find out?

24 A I believe so.

25 Q How would you go about finding out that

1 PATRICK PITTMAN - CONFIDENTIAL 64

2 information?

3 A Looking further into the business records
4 that were implemented into our business records --
5 incorporated. Excuse me.

6 MR. WEINBERG: I'd like to request
7 that you do that, go ahead, for all the
8 hazard insurance payment entries, provide
9 documentation as to whom the payments
10 were made.

11 Q If we scroll down on that same page down
12 to the entry that's marked 11/20/2007, city tax
13 payment.

14 A Okay.

15 Q You see that entry?

16 A I do.

17 Q What is this entry indicating?

18 A Indicates that \$2,078.59 that was a
19 payment that was made for city taxes on November 20,
20 2007.

21 Q Have you seen a receipt of wire transfer
22 for this alleged transaction?

23 A I did not search for receipts.

24 Q What did you say, you did not search for
25 receipts?

1 PATRICK PITTMAN - CONFIDENTIAL 65

2 A That is correct.

3 Q So you're not certain if a receipt exists
4 for this transaction?

5 A I am not certain.

6 Q Without a receipt or any other type of
7 documentation showing that payment was tendered,
8 upon what is SPS relying that payment was made?

9 A 'Cause the payment is reflected on their
10 payment history report.

11 Q But it does not appear that there was any
12 proof that the payment was actually made.

13 A I don't -- I don't agree with that. This
14 report is a reflection of the escrow -- includes the
15 reflection of escrow amounts being paid by Bank of
16 America.

17 Q Upon what documents does Bank of America
18 rely to put this report together?

19 A Information would have come from their
20 accounting department who, again, entered this
21 information at the time of the events by persons of
22 knowledge, of persons who have been trained to be
23 able to maintain the escrow amounts.

24 Q Would that information from the
25 accounting department have been transferred to SPS

1 PATRICK PITTMAN - CONFIDENTIAL 66

2 at service transfer as some of the records that we
3 were talking about earlier?

4 A I believe that there's possibly more
5 information that can be shared, but, again, this is
6 a reflection of the payment history for this account
7 by Bank of America.

8 Q Yes, I understand that it's a reflection
9 of the payment history, but I'm trying to understand
10 where the documentation that supports it is.

11 A Again, I did not search for receipts on
12 these loan items.

13 Q But you're still certain that the amounts
14 were paid?

15 A I have no reason to believe that they
16 were not paid as, again, we started servicing
17 December 2006 and then took over the payments.

18 Q Has the borrower ever paid the taxes or
19 insurance on this loan?

20 A Not that I recall.

21 Q From your review of the file, did the
22 file indicate if the borrower ever paid the taxes
23 and the insurance?

24 A Again, not that I recall.

25 Q Did you review the file to ascertain

1 PATRICK PITTMAN - CONFIDENTIAL 67

2 whether the borrower paid the taxes or the

3 insurance?

4 A I did not, but I did review the file that

5 reflects that the prior servicer, including the

6 current servicer, SPS, did make those payments.

7 MR. WEINBERG: Could you just read

8 back that answer, please.

9 (Whereupon, the requested portion

10 of the transcript was read back by this

11 reporter.)

12 Q That's based on this payment history?

13 A That is correct.

14 Q But you've never seen any documentation

15 supporting this payment history?

16 A Outside of the documents we have talked

17 about today so far, I have not.

18 Q But there may be additional documents?

19 A I don't know.

20 Q How can you figure out if there are

21 additional documents?

22 A I believe you've already put in a request

23 for it so that's how.

24 Q Okay.

25 Has this loan always been escrowed for

1 PATRICK PITTMAN - CONFIDENTIAL 68

2 taxes and insurance?

3 A I don't have any reason to believe it had

4 not been.

5 Q For taxes and insurance?

6 A Correct.

7 Q Is it currently?

8 MR. WEINBERG: Sorry. Strike

9 that.

10 Q Is it currently being escrowed for taxes

11 and insurance?

12 A Yes.

13 Q If I could direct you to Plaintiff's B,

14 which is marked as Plaintiff's 2.

15 Have you seen this document before?

16 A I have.

17 Q What is this document?

18 A It's entitled Proof of Claim.

19 Q Do you have an understanding of what a

20 Proof of Claim is?

21 A I'm reading it.

22 Q Sure.

23 A Okay.

24 Q Sir, are you familiar with this

25 document?

1 PATRICK PITTMAN - CONFIDENTIAL 69

2 A I have a general knowledge of it.

3 Q What's your general understanding of this

4 document?

5 A My general understanding is what's

6 reflected on the document, stating this form is for

7 making a claim for payment in a bankruptcy case.

8 Q Do you know why this document was

9 filed?

10 A For making a claim for payment in a

11 bankruptcy case.

12 Q By whom?

13 A It was filed by our counsel at that

14 time.

15 Q Who was that counsel?

16 A Sheldon May and Associates.

17 MR. WEINBERG: Can we go to the

18 page that is designated mortgage proof of

19 claim attachment. It's marked as

20 DBNT0004.

21 Q If we look at part four on the right, the

22 column on the right, you see that?

23 A Yes.

24 Q Can you read what that says?

25 A Part four is monthly mortgage payment.

1 PATRICK PITTMAN - CONFIDENTIAL 70

2 It's a breakdown of the monthly mortgage payment,
3 principal and interest, \$1,241.58; monthly escrow,
4 \$401.13; for the total monthly payment of
5 \$1,642.71.

6 Q This is the current monthly payment
7 breakdown?

8 A That is my understanding.

9 Q The loan is currently being escrowed for
10 taxes and insurance?

11 A I don't recall.

12 Q You previously stated that it was. Are
13 you changing that?

14 A I'm saying I don't recall, so, yeah, I'm
15 changing it.

16 Q From a review of your records, would you
17 be able to ascertain if the loan is currently being
18 escrowed for taxes and insurance?

19 A Yes.

20 Q How much does it say under part four is
21 being paid for mortgage insurance?

22 A You want me to read it again?

23 Q Yes, if you can just read the part where
24 it talks about insurance and the number, the amount
25 of dollars.

1 PATRICK PITTMAN - CONFIDENTIAL 71

2 A In part four?

3 Q Yes, please.

4 A The amount again for monthly escrow is

5 \$401.13.

6 Q What's the insurance amount?

7 A Zero.

8 Q You previously stated that the loan is

9 being escrowed for taxes and insurance, no?

10 A That's not the -- that reads private

11 mortgage insurance.

12 Q Okay. So what's the difference?

13 A You're speaking of hazard insurance.

14 Q What's private mortgage insurance?

15 A Private mortgage insurance. I mean it's

16 zero dollars so I don't know what it's referring

17 to.

18 Q So monthly escrow where it states here

19 that is supposed to encompass taxes and hazard

20 insurance?

21 A As I read before in Bank of America's

22 payment history.

23 I will say that if SPS is paying the

24 escrow, the borrower is still supposed to pay that

25 amount back to SPS, the servicer. So just because

1 PATRICK PITTMAN - CONFIDENTIAL 72

2 it says what their monthly escrow amount is doesn't
3 mean that SPS is not paying the escrow amount. That
4 amount is supposed to come with the principal and
5 interest payments as mortgage payments from the
6 borrower to SPS. SPS is making those direct
7 payments.

8 Q To the insurance and to the
9 municipality?

10 A That's correct.

11 Q What insurance company is SPS making
12 those payments to?

13 A I don't know the insurance company's
14 name.

15 Q But you'd be able to find out with a
16 review of the loan records?

17 A If you put in your request, I believe
18 that counsel will take a look at it and determine
19 that.

20 Q Okay.

21 MR. WEINBERG: I'd like to formally
22 request an analysis as to what vendor
23 insurance payments are being made.

24 Q If we could go back to exhibit
25 Plaintiff's 5, which is E.

1 PATRICK PITTMAN - CONFIDENTIAL 73

2 Mr. Pittman, when this loan service
3 transferred from Bank of America to SPS, did SPS
4 receive any correspondence that Bank of America had
5 sent out?

6 A Sent out to whom?

7 Q To anyone. Was there correspondence in
8 the loan filed, in the imaged documents?

9 A Are you speaking of any particular
10 correspondences?

11 Q I'm speaking in general did SPS receive
12 copies of correspondence that Bank of America had
13 mailed to any party, the borrower, a third-party
14 municipality, insurance company. Was there
15 correspondence in the loan file?

16 A I believe there are correspondences in
17 the loan file. However, I am not aware of them
18 being needed for this matter, but, again, I did not
19 review the entire file but I did review those
20 documents that were, I believe, a part of
21 production.

22 Q Do you have any knowledge of any
23 correspondence with any municipalities?

24 A I don't recall, but I'm not stating that
25 there aren't any. If you have any, we could look at

1 PATRICK PITTMAN - CONFIDENTIAL 74

2 them together right now during this deposition but
3 otherwise I don't recall any.

4 Q Do you have any knowledge of any
5 correspondence with any vendors for insurance?

6 A Not that I recall outside of the Proof of
7 Claim we just went over, but not that I recall.

8 Q Do you have any knowledge of any
9 correspondence between Bank of America and any
10 vendors for property inspections?

11 A For property inspections?

12 Q Yes.

13 A I don't recall, but I do recall that
14 payments were being made for property inspections
15 that did occur.

16 Q You saw receipts from payments for
17 property inspections?

18 A I didn't state that.

19 Q You said that payments were being made
20 and I'm asking if there is documentation confirming
21 that.

22 A As we went over the Bank of America
23 payment history, that reflected property
24 inspections, which you saw that with me, but, again,
25 my testimony is I did not seek receipts from either

1 PATRICK PITTMAN - CONFIDENTIAL 75

2 of these line items that were reflected for property
3 inspections or escrows.

4 Q From your review of the loan file in the
5 imaged documents, have you seen any appraisals for
6 the property?

7 A I saw -- well, yes, I did.

8 Q You saw appraisals to the property?

9 A I saw a broker price opinion.

10 Q Can I direct you to Plaintiff's A, which
11 is 1, the seventh request. It's on page 10.

12 Could you please read request number
13 seven.

14 A Produce all property valuations, BPOs and
15 inspections for the property from August 25, 2006 to
16 the present.

17 MR. WEINBERG: We'd like to
18 reiterate this formal demand. Could you
19 please provide the appraisals to which he
20 is referring.

21 MS. STRAUB: Just for clarity, the
22 BPO that I'm aware of that he's most
23 likely referring to is actually your BPO
24 from the motion in the underlying
25 bankruptcy matter.

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PATRICK PITTMAN 76

MR. WEINBERG: Okay, if that's the case.

Mr. Pittman, it is 12:25 P.M., and we for right now would like to adjourn. Thank you so much for your time.

THE WITNESS: Thank you.

(Whereupon, the within examination was adjourned at 12:25 P.M.)

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A C K N O W L E D G M E N T

STATE OF)
:
SS:
COUNTY OF)

I, PATRICK PITTMAN, hereby certify that I
have read the transcript of my testimony taken under
oath in my deposition of April 22, 2020; that the
transcript is a true, complete and correct record of
what was asked, answered and said during this
deposition, and that the answers on the record as
given by me are true and correct.

PATRICK PITTMAN

Subscribed and sworn to
before me this _____ day
of _____, 2020.

NOTARY PUBLIC

1 78

2 I N D E X

3

4 WITNESS EXAMINATION BY PAGE
 5 Patrick Pittman Mr. Weinberg 7 to 76

6

7 E X H I B I T S

8 PLAINTIFF'S PAGE

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I N D E X (CONT'D)

3

4

INFORMATION TO BE SUPPLIED

5

PAGE

LINE

DESCRIPTION

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Copy of power of attorney

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Copy of the pooling and

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servicing agreement

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Documents reviewed in
preparation for the
deposition in addition to
what has been produced

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Copy of the wet ink note

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Copies of documents,
checks, drafts, bank wire
transfer receipts
evidencing any payment made
since August 25, 2006 for
local taxes, assessments,
water rates insurance
premiums, inspections and
any other charges

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Documentation as to whom
payments were made for all
the hazard insurance
payments

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Name of the vendor
insurance payments are
being made to

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Appraisals

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C E R T I F I C A T E

4 STATE OF NEW YORK)
 : SS:
5 COUNTY OF NASSAU)

7 I, ANDREA BLOECKER, a Shorthand Reporter and
8 Notary Public within and for the State of New York,
9 do hereby certify:

10 That PATRICK PITTMAN, the witness whose
11 deposition is hereinbefore set forth, was duly sworn
12 by me, and that such deposition is a true record of
13 the testimony given by such witness.

14 I further certify that I am not related to any
15 of the parties to this action by blood or marriage,
16 and that I am in no way interested in the outcome of
17 this matter.

18 IN WITNESS WHEREOF, I have hereunto set my hand
19 this 27th day of April, 2020.

Andrea Bloeker

ANDREA BLOECKER



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